



Northern Ireland
Assembly

Committee for Health

OFFICIAL REPORT (Hansard)

Adoption and Children Bill:
Clause-by-clause Consideration

25 January 2022

NORTHERN IRELAND ASSEMBLY

Committee for Health

Adoption and Children Bill: Clause-by-clause Consideration

25 January 2022

Members present for all or part of the proceedings:

Mr Colm Gildernew (Chairperson)
Mrs Pam Cameron (Deputy Chairperson)
Ms Paula Bradshaw
Mr Gerry Carroll
Mr Alan Chambers
Mrs Deborah Erskine
Ms Órlaithí Flynn
Mr Colin McGrath
Ms Carál Ní Chuilín

The Chairperson (Mr Gildernew): We will proceed through the clauses and put the Questions formally. If there is no consensus, I will ask members to vote through a show of hands, and the Clerk will confirm the result of each vote. Where there are amendments to a clause, I will put the Question on the amendment first. Where no amendments have been proposed to clauses and no issues highlighted, I will seek the agreement of the Committee to group those clauses when putting the Question. The Question on any amendment that introduces a new clause to the Bill will be put at the relevant point.

Question, That the Committee is content with clause 1, put and agreed to.

Question, That the Committee is content with clause 2, put and agreed to.

Clause 3 (Adoption authority)

The Chairperson (Mr Gildernew): The Department has provided amendments to clause 3 to remove the regional board from the definition of an adoption authority. They are consequential amendments that arise as a result of the Health and Social Care Bill's dissolution of the Health and Social Care Board.

Question, That the Committee is content with the amendments, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Question, That the Committee is content with clause 4, put and agreed to.

Clause 5 (Assessments etc. for adoption support services)

The Chairperson (Mr Gildernew): The Committee felt that clause 5 did not make it sufficiently clear which categories of persons would be entitled to adoption support services and agreed to propose an amendment to clarify that. The text of the amendment is in members' packs.

Question, That the Committee is content with the amendment, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

The Chairperson (Mr Gildernew): I seek members' agreement to group clauses 6 to 14, which cover the registration and regulation of agencies and other provisions. Are members content to group the clauses for the Question?

Members indicated assent.

Question, That the Committee is content with clauses 6 to 14, put and agreed to.

The Chairperson (Mr Gildernew): I will move on to Chapter 3:

"Placement for adoption and adoption orders".

The clauses in Chapter 3 provide for the replacement of freeing orders with new placement orders and introduce new provisions for the placement of children for adoption. I seek members' agreement to group clauses 15 to 64, which cover the registration and regulation of agencies and other provisions. Are members content to group the clauses for the Question?

Members indicated assent.

Question, That the Committee is content with clauses 15 to 64, put and agreed to.

The Chairperson (Mr Gildernew): Chapter 4 relates to the status of adopted children. I seek the agreement of members to group clauses 65 to 75, which cover the status of adopted children and how they are to be treated in law. Are members content that we group those?

Members indicated assent.

Question, That the Committee is content with clauses 65 to 75, put and agreed to.

The Chairperson (Mr Gildernew): Chapter 5 is to do with registers. I seek the agreement of members to group clauses 76 to 81, which cover registration issues surrounding adoption and the duties placed on the Registrar General. Are members content that we group those?

Members indicated assent.

Question, That the Committee is content with clauses 76 to 81, put and agreed to.

The Chairperson (Mr Gildernew): Chapter 6 relates to adoptions with a foreign element. I seek the agreement of members to group clauses 82 to 95, which cover registration issues surrounding adoption and the duties placed on the Registrar General. Are members content to group those clauses?

Members indicated assent.

Question, That the Committee is content with clauses 82 to 95, put and agreed to.

The Chairperson (Mr Gildernew): Chapter 7 is miscellaneous. I seek members' agreement to group clauses 96 to 101, which cover restrictions on making arrangements for adoption payments made or received in consideration of an adoption and associated offences. Are members content that we group those clauses?

Members indicated assent.

Question, That the Committee is content with clauses 96 to 101, put and agreed to.

Clause 102 (Pre-commencement adoptions: information)

The Chairperson (Mr Gildernew): The Department has provided the text of seven amendments to the clause that aim to address issues with access to information identified by victims and survivors during the work of the truth recovery design panel. I refer members to the text of the amendments in your packs.

Question, That the Committee is content with the amendments, put and agreed to.

Ms Ní Chuilín: [*Inaudible owing to poor sound quality*] points that I made earlier, just to make sure that it is all in line with data protection and the Public Records Act and to express an interest as a previous Minister in charge of public records.

The Chairperson (Mr Gildernew): That is pending further information being provided to the Committee that it is in keeping with other data protection legislation. Are members content on that basis?

Members indicated assent.

The Chairperson (Mr Gildernew): Is the Committee content with the clause, subject to the proposed amendments and subject to further consultation in relation to ensuring that it is compliant with other data protection legislation?

Question put and agreed to.

The Chairperson (Mr Gildernew): I seek members' agreement to group clauses 103 to 115. The clauses cover proceedings for offences, children's court guardians, evidence, orders made in Great Britain and related issues. Are members content that we group those clauses?

Members indicated assent.

Question, That the Committee is content with clauses 103 to 115, put and agreed to.

The Chairperson (Mr Gildernew): Part 2 relates to "Children Order Amendments". I ask members' agreement to group clauses 116 to 118, which cover the definition of family proceedings, authority foster parents and duration of residence orders. Are members content that we group those clauses?

Members indicated assent.

Question, That the Committee is content with clauses 116 to 118, put and agreed to.

Clause 119 (Special guardianship)

The Chairperson (Mr Gildernew): There are amendments from the Committee and the Department. The Department has provided the text of two amendments to the clause. The purpose of the amendments is to place a duty on authorities in the Bill to conduct an assessment of needs for special guardian support services in respect of certain categories of people on request. I refer members to the text of the Department's amendments.

Is the Committee content with the amendments proposed by the Minister?

Question put.

The Chairperson (Mr Gildernew): Let me check: is the amendment from the Committee additional to the Department's amendments or instead of?

The Committee Clerk: It is additional.

The Chairperson (Mr Gildernew): I will put that Question again: is the Committee content with the amendments proposed by the Minister?

Question, That the Committee is content with the amendments, put and agreed to.

The Chairperson (Mr Gildernew): The Committee has proposed an amendment to make it sufficiently clear which categories of person will be entitled to adoption support services, replicating the amendment to clause 5.

Question, That the Committee is content with the amendment, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

The Chairperson (Mr Gildernew): I seek members' consent to group clauses 120 to 121, which require an authority to ascertain a child's wishes and to provide services to children in need. Are members content that we group those?

Members indicated assent.

Question, That the Committee is content with clauses 120 and 121, put and agreed to.

Clause 122 (Duty of authorities to promote educational achievement and prevent disruption of education and training)

The Chairperson (Mr Gildernew): Members, the Committee felt that the use of the word "promote" was not sufficiently strong and agreed to table an amendment to strengthen it by adding the words "facilitate and support". In addition, the Committee agreed that the focus of the clause should be wider than academic achievement alone and agreed a further amendment to that effect. I refer members to the text of the amendments.

Question, That the Committee is content with the amendments, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

The Chairperson (Mr Gildernew): Clauses 123 to 128 cover corporate parenting principles, the placement of looked-after children with prospective adopters, accommodation for children, authority foster parents and the duty to ensure visits to and advice for children and arrangements for former relevant children.

Question, That the Committee is content with clauses 123 to 128, put and agreed to.

The Chairperson (Mr Gildernew): Clauses 129 to 131 cover local offers for care leavers, enquiries into representations and the review of cases of looked-after children. Are members content to group the clauses?

Members indicated assent.

Question, That the Committee is content with clauses 129 to 131, put and agreed to.

Clause 132 (Advocacy services)

The Chairperson (Mr Gildernew): The Department has provided the text of an amendment to the clause. Clause 132 inserts a new provision into the Children Order 1995 to provide that an authority must make arrangements for the provision of assistance to those who make or intend to make representation under articles 35D and 45 of the Children Order. The Department advises that stakeholders suggested that clause 132 should be amended to more clearly reflect the fact that advocacy services will be independent of trusts. I refer members to the text of the amendments.

Question, That the Committee is content with the amendments, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 133 (Definition of harm)

The Chairperson (Mr Gildernew): The Department has provided the text of two amendments to the clause. I refer members to the text of the amendments. Is the Committee content with the amendments to clause 133 proposed by the Minister, pending consultation with the Human Rights Commission?

Members indicated assent.

The Chairperson (Mr Gildernew): Is the Committee content with the clause, subject to the proposed departmental amendments and pending consultation with the Human Rights Commission.

Question put and agreed to.

The Chairperson (Mr Gildernew): Clauses 134 and 135 cover care plans and parental contact with children in the care of an authority. Is the Committee content that we group them?

Members indicated assent.

Question, That the Committee is content with clauses 134 and 135, put and agreed to.

The Chairperson (Mr Gildernew): I would like the Committee's consent to group clauses 136 to 142, which cover the renaming of guardians ad litem, the interests of children in proceedings, provisions regarding privately fostered children and privacy for children in proceedings.

Question, That the Committee is content with clauses 136 to 142, put and agreed to.

Clause 143 (Annual report)

The Chairperson (Mr Gildernew): The Committee was not in favour of ending the requirement to produce an annual report on the Children Order. The Committee will remember that there was significant discussion of that issue.

Question, That the Committee is content with clause 143, put and negatived.

Question, That the Committee is content to oppose the Question that clause 143 stand part, put and agreed to.

New Clauses

The Chairperson (Mr Gildernew): We move to clauses 143A to 143E, which we have discussed. I advise members that the Department has provided the text of amendments that give effect to part 1 of recommendation 4 from the report of the truth recovery design panel, which relates to the preservation of records. I refer members to the text of the amendments in their packs. Is the Committee content with the amendments to insert new clauses to provide for the preservation of records, as proposed by the Minister, subject to consultation to ensure that it is compliant with other data protection legislation?

Members indicated assent.

Ms Ní Chuilín: And public records, Chair? *[Inaudible owing to poor sound quality]* public records.

The Chairperson (Mr Gildernew): Public records, yes. That was discussed. I will therefore put the Question that the Committee recommends to the Assembly that proposed new clauses 143A to 143E be added to the Bill, subject to consultation to ensure that doing so is compliant with other data protection and public records legislation.

Question put and agreed to.

Clause 144 (Northern Ireland Adoption and Children Act Register)

The Chairperson (Mr Gildernew): There are amendments to the following clauses to remove references to the Health and Social Care Board, following the dissolution of the board. I refer members to the text of the amendments.

Question, That the Committee is content with the amendments, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 145 (Use of an organisation to establish the register)

The Chairperson (Mr Gildernew): There are amendments to clause 145 to remove references to the Health and Social Care Board, following its dissolution. I refer members to the text of amendment Nos 5 to 11.

Question, That the Committee is content with the amendments, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 146 (Use of an organisation as an agency for payments)

The Chairperson (Mr Gildernew): There are departmental amendments to clause 146 to remove references to the Health and Social Care Board, following its dissolution. I refer members to the text of amendment Nos 12 and 13.

Question, That the Committee is content with the amendments, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 147 (Supply of information for the register)

The Chairperson (Mr Gildernew): Again, there are amendments to the clause to remove references to the Health and Social Care Board. I refer members to amendment Nos 14 to 17.

Question, That the Committee is content with the amendments, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 148 (Disclosure of information)

The Chairperson (Mr Gildernew): Clause 148 is again impacted by references to the Health and Social Care Board, and there are amendments to take that into account. I refer members to the text of amendment Nos 18 to 21.

Question, That the Committee is content with the amendments, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 149 (Search and inspection of the register by prospective adopters)

The Chairperson (Mr Gildernew): Again, the clause is impacted by the Health and Social Care Board dissolution. I refer members to amendment No 22.

Question, That the Committee is content with the amendment, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 150 (Search and inspection of the register by adoption agencies)

The Chairperson (Mr Gildernew): Again, the clause is impacted by the Health and Social Care Board dissolution. I refer members to amendment No 23.

Question, That the Committee is content with the amendment, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

The Chairperson (Mr Gildernew): I seek members' agreement that we group clauses 151 to 154, which cover supplementary matters connected to the Bill. Are members content that we group those clauses?

Members indicated assent.

Question, That the Committee is content with clauses 151 to 154, put and agreed to.

Clause 155 (Regulations and orders)

The Chairperson (Mr Gildernew): The Department has provided the text of an amendment to the clause. Clause 42 provides a power for the Department to prescribe in regulations the matters to be taken into account by an adoption agency in determining the suitability of any persons to adopt a child. The Department advises that the amendment will include regulations made under clause 42 in the list of regulations that will be subject to affirmative resolution procedure, instead of negative resolution, as originally drafted. I refer members to the text of the amendment.

Question, That the Committee is content with the amendment, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

The Chairperson (Mr Gildernew): I seek members' consent to group clauses 156 and 157. Are members content?

Members indicated assent.

Question, That the Committee is content with clauses 156 and 157, put and agreed to.

New Clause

The Chairperson (Mr Gildernew): New clause 157A is "Review". I remind members that the Committee agreed to propose an amendment to require the Department to review the legislation and make a report to the Assembly on the implementation of Parts 1 and 2 of the Bill as soon as practicable after the third anniversary of the commencement. The Committee also agreed that the Department should report at least once every five years. I refer members to the text of amendment G.

Question, That the Committee is content with the amendment, put and agreed to.

Question, That the Committee is content with the new clause, put and agreed to.

Clause 158 (Interpretation)

The Chairperson (Mr Gildernew): I advise members that the Department has provided the text of an amendment to clause 158. It is a consequential amendment arising as a result of the Health and Social Care Board dissolution.

Question, That the Committee is content with the amendment, put and agreed to.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 159 (Commencement)

The Chairperson (Mr Gildernew): I advise members that the Department has provided the text of an amendment to clause 159 to provide that new clauses 143A to 143E, relating to the preservation of records, will be commenced on Royal Assent, which is the earliest opportunity. I refer members to the text of amendment No 6.

Is the Committee content with the amendment to clause 159 proposed by the Minister, pending consultation to ensure its compliance with public records and data protection legislation?

Members indicated assent.

The Chairperson (Mr Gildernew): I will put the Question that the Committee is content with clause 159, subject to the proposed departmental amendment and pending further information to ensure that it is compliant with public records and data protection legislation.

Question put and agreed to.

Question, That the Committee is content with clause 160, put and agreed to.

Question, That the Committee is content with schedule 1, put and agreed to.

Schedule 2 (Disclosure of birth records by Registrar General)

The Chairperson (Mr Gildernew): The Department has provided the text of an amendment to schedule 2 to remove the requirement for people who were adopted before 18 December 1987 to attend an interview with a counsellor before information on their birth records can be provided to them by the Registrar General. I refer members to the text of the amendment. We have discussed that this will be noted in relation to how that support will be extended to people as part of our report.

Question, That the Committee is content with the amendment, put and agreed to.

Question, That the Committee is content with the schedule, subject to the proposed amendment, put and agreed to.

Schedule 3 (Minor and consequential amendments)

The Chairperson (Mr Gildernew): The Department has provided the text of an amendment to schedule 3. It relates to a consequential amendment to the Access to Justice (NI) Order 2003. The Department has also provided the text of a consequential amendment to schedule 3 arising as a result of the dissolution of the regional board under the Health and Social Care Bill. I refer members to the text of amendment Nos 25 to 28.

Question, That the Committee is content with the amendments, put and agreed to.

Question, That the Committee is content with the schedule, subject to the proposed amendments, put and agreed to.

Schedule 4 (Transitional and transitory provisions and savings)

Schedule 5 (Repeals)

The Chairperson (Mr Gildernew): The Department has provided the text of amendments to schedules 4 and 5 to repeal the Adoption (Hague Convention) Act (NI) 1969 and to insert "Savings provision" to ensure that the future rights of anyone adopted through a convention adoption order under the 1969 Act will not be negatively affected by its repeal. The Department has also provided the text of consequential amendments to schedules 4 and 5 arising as a result of the dissolution of the regional board under the Health and Social Care Bill. I refer members to the text of amendment Nos 29 to 34.

Question, That the Committee is content with the amendments, put and agreed to.

Question, That the Committee is content with schedules 4 and 5, subject to the proposed amendments, put and agreed to.

Question, That the Committee is content with the long title, put and agreed to.

The Chairperson (Mr Gildernew): Members, that concludes the clause-by-clause scrutiny of the Adoption and Children Bill. We will now consider the Committee's draft report on the Bill. The Committee will schedule a briefing from the Examiner of Statutory Rules on further suggested amendments. The Committee reserves the right to consider further amendments and to include them in an addendum report, should we propose them. Thank you for that.